

KELLOGG, HANSEN, TODD, FIGEL & FREDERICK, P.L.L.C.

SUMNER SQUARE
1615 M STREET, N.W.
SUITE 400
WASHINGTON, D.C. 20036-3215

(202) 326-7900

FACSIMILE:

(202) 326-7999

December 2, 2020

The Honorable Ronnie Abrams, United States District Judge
United States District Court
Southern District of New York
40 Foley Square, Room 2203
New York, NY 10007
(212) 805-0284

Re: Letter Motion to Schedule a Rule 16 Conference
United States ex rel. Hart v. McKesson Corp., No. 1:15-cv-00903-RA

Dear Judge Abrams:

We represent Relator Adam Hart in the above matter and write to respectfully request that the Court schedule an initial Rule 16 case management conference pursuant to Fed. R. Civ. P. 16(c) and Individual Rule 2(B).

Relator has attempted to begin the process of planning for discovery by requesting that the Defendants participate in a Rule 26(f) conference. In addition, Relator has proposed to Defendants a protective order so that the documents that Defendants have already produced to the Department of Justice (“DoJ”) in response to DoJ’s civil investigatory demand issued after the sealed complaint was filed, and which DoJ has already provided to Relator, may be used in this action. There is no burden on Defendants in entering such a protective order now. The parties have met and conferred and Defendants have informed Relator that they believe any initial case management conference or Rule 26(f) conference would be premature.¹

Relator respectfully submits that it is appropriate at this juncture to conduct the initial Rule 16(b) conference. This False Claims Act (“FCA”) case was filed on February 6, 2015, and

¹ Rule 26(f)(1) provides: “Except in a proceeding exempted from initial disclosure under Rule 26(a)(1)(B) or when the court orders otherwise, the parties must confer as soon as practicable – and in any event at least 21 days before a scheduling conference is to be held or a scheduling order is due under Rule 16(b).”

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was unsealed by Order dated March 13, 2020. Under this Court's Individual Rules, "[t]he Court will generally schedule a Fed. R. Civ. P. 16(c) conference within three months of the filing of the Complaint." Individual Rule 2(B). Moreover, there is no provision under the FCA automatically staying discovery while a motion to dismiss (which has now been fully briefed) is pending. Initiating the Rule 26(f) process and establishing a discovery plan now will expedite discovery and, ultimately, the adjudication of this action.

A proposed order is attached.

Respectfully submitted,

/s/ Andrew C. Shen

Andrew C. Shen
ashen@kellogghansen.com
KELLOGG, HANSEN, TODD,
FIGEL & FREDERICK, P.L.L.C.
1615 M Street N.W., Suite 400
Washington, D.C. 20036
Tel: (202) 326-7900
Fax: (202) 326-7999

Counsel for Plaintiff Hart

cc: Counsel for Defendants